

REMARKS

I. Status of the Claims

All of claims 1, 4-10, 12-13, 15-18, 21, 23-26 and 28-44 are pending in the current application. Claims 1, 4-10, 12-13, 15-18, 21, 23-26, 28-39 and 44 are allowed. Claims 40-43 have been rejected under 35 U.S.C. § 112 by the Examiner in the previous Office Action.

Claims 40-43 have been amended herein. Claims 45-46 have been added and are now presented for consideration by the Examiner. No new matter has been introduced with this amendment, and thus, entry and consideration is respectfully requested.

II. Response to Claim Rejections under 35 U.S.C. § 112

Claim 40-43 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner alleges that claims 40-43 recite various computer-related aspects that are not explicitly disclosed in the specification.

The preambles of claims 40, 42 and 43 have been amended to recite (emphasis added): “A computer program product comprising computer executable program code recorded on a computer readable storage medium, the computer executable program code comprising:” Applicants respectfully assert that the above phrasing conforms to current U.S. patent practices and alleviates any confusion related to the claimed subject matter. In particular, “computer executable program code” and “computer readable storage medium” would have been readily comprehensible to one of ordinary skill in the art at the time the invention was made, who would have clearly understood the types of coding and media that would have been incorporated within these categories based on the disclosure (e.g., in view of the “Overview” set forth on pages 9-10 of the original specification) and what was known in the art at the time the invention was made. Moreover, one of ordinary skill in the art at the time the invention was made would have also understood that “storage media,” as claimed, is clearly distinguishable from any type of media that would not fall into one of the four statutory categories of patentable subject matter (e.g., that “storage” media is distinguishable from “carrier signal” media, which is not tangibly embodied).

Applicants further respectfully assert that a requirement for explicit support in the specification for each and every claimed term is overly narrow, and further, is not in accordance with current United States Patent and Trademark Office (USPTO) guidelines. These guidelines were published in the Official Gazette (OG) Notices: 22 November 2005 under the heading

Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility.

In the section entitled "I. Introduction" these guidelines specify that (emphasis added):

"USPTO personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum, if elements of an invention are well known in the art, the applicant does not have to provide a disclosure that describes those elements. Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read on only the structures or materials disclosed in the specification and "equivalents thereof." Two en banc decisions of the Federal Circuit have made clear that the USPTO is to interpret means plus function language according to 35 U.S.C. Sec. 112, sixth paragraph. In re Donaldson, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994) (in banc); In re Alappat, 33 F.3d 1526, 1540, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (in banc)."

Applicants contend that the original specification provides adequate support for these limitations, both when considering the specification alone and in view of what was known in the art at the time the invention was made. The Examiner appears to require the recitation and definition of exact terms in the disclosure. Such practices are not required in view of the above. While the above terms may not be explicitly defined in the specification, these aspects of the invention would have been readily understandable to one of ordinary skill in the art in view of the figures, the specification and what was known in the art at the time the invention was made.

In view of the above, Applicants respectfully request that the 35 U.S.C. § 112, first paragraph, rejections to claims 40-43 now be withdrawn.

II. New Claims

Claims 45-46 have been added herein. No new matter has been added with these claims. New claims 45-46 are based substantially on pending claim 29, but have been amended to present a slightly different scope than the original claim. As a result, Applicants respectfully assert that claims 45-56 find support and are distinguishable from the cited references, taken alone or in combination, based upon the same criteria that applies to currently pending claim 29.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for the consideration of this paper to Deposit Account No. 50-4827, Order No. 1004289-125US (4208-4131US1).

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-4827, Order No. 1004289-125US (4208-4131US1).

Respectfully submitted,

Locke Lord Bissell & Liddell LLP

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By:



Elliot L. Frank

Registration No. 56,641

Telephone: (202) 220-6976

Facsimile: (202) 220-6945

Correspondence Address:

Information associated with customer number:

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